It is ironic, but fitting, that stations hoping to serve URBAN neighborhoods will benefit from an increase of radio industry interest in smaller cities, small towns and rural areas. If the current economic incentives to serve large metropolitan areas are neutralized -- or even reversed -- through the judicious structuring of LPRS power ceilings, there will be less competition for LPRS licenses WITHIN the larger urban areas.

Neighborhood-oriented urban stations, which CANNOT relocate unless their neighborhoods do, will HAVE to stay where they are. However, since SOME stations CAN be induced to choose less populated areas, those stations which remain in larger cities will face less competition for licenses.

The number of urban neighborhood stations could be GREATLY increased IF the FCC: (a) creates an LP-10 Tier that (b) offers both AM and FM licenses AND (c) is open to part-time stations.

Airing Of Commercials By LPRS Stations

10. We consider it imperative that the Commission allow LPRS stations to air commercials. Without this ability:

(A) Many LPRS stations will face much greater difficulty in supporting themselves financially.

(B) Many small businesses will be denied the benefit of access to radio advertising they can actually afford.

(C) In some cases, neighborhoods served by these businesses will also suffer -- or, more precisely, will continue to suffer. Dollars that might have been spent at small, local businesses will continue to be spent instead at chain restaurants, chain department stores, "cookie cutter" shopping malls and other "absentee owner" operations. If the FCC does not allow LPRS stations to air commercials, the FCC will be turning its back on a precious opportunity to keep more dollars within the communities where they were earned.

(D) Even the larger businesses, which can afford to advertise on conventional stations, will lose the benefit of possible cuts in their advertising rates.

IF commercial-airing LPRS stations are licensed, thereby bringing new competitive pressures to bear for the first time, they could cause a considerable drop in conventional station advertising rates.

(E) In at least some cases, consumers will lose the benefit of prices for products and services that would otherwise drop due to lower advertising costs.

Having said all this:

11. We are willing to accept a "non-commercial" LPRS: (a) IF this status exempts LPRS stations from mandatory auctions; and (b) IF the regulatory term "non-commercial" is clearly defined to mean "non-profit" rather than "commercial-free".

Auctions are, of course, "the elephant in the living room". If they did not exist, with "non-commercial" operation as a legally viable way to become exempt from them, we might be asking for an unfettered ability to make profits. Under the circumstances, however, most of our Members are willing to settle for the ability to cover their reasonable costs (including the payment of decent salaries).

In other words, most of the aspiring LPRS broadcasters in THE AMHERST ALLIANCE are willing to accept "non-profit" status -- no stocks, no dividends -- IF they can avoid auctions and STILL air the commercials they believe they need.

It is no exaggeration to say that some of our aspiring LPRS broadcasters view the right to air commercials as a survival issue.

A total ban on commercials would be A Death Knell for their dreams.

At the same time, most of the aspiring LPRS broadcasters are simply seeking to pursue a vocation they love while still maintaining a decent -- not lavish, but decent!! -- standard of living for themselves, their families and their employees. Most of them could make more money, and in some cases considerably more money, by doing something else.

However, they want to do broadcasting: LPRS broadcasting. They want to do it for their communities, they want to do it for voices that are now excluded from the airwaves -- and they want to do it for their own expression and fulfillment.

The aspiring LPRS broadcasters within Amherst remind Don Schellhardt, their National Coordinator, of farmers he has met.

A Nebraska farmer once told him this:

"Farming isn't a business. Farming is a way of life. You don't farm so you can make money. You make money so you can keep on farming."

Most of the aspiring broadcasters in Amherst could relate to this statement.

That is why the aspiring Amherst broadcasters are willing to limit their advertising revenues to the level needed to cover their REASONABLE station operation expenses -- including a decent salary for themselves and members of their staff.

Please remember that even non-profit stations need sources of cash flow. Given this universal need, WHY NOT allow commercials?

Proponents of a totally commercial-free LPRS assert that dependence on corporate advertising will jeopardize the impartiality of an LPRS station, but what makes them think it is morally superior to rely on foundations or government agencies or political groups for support? Do not THESE sources of cash flow have THEIR OWN agendas?

Are ANY of these groups REALLY less of a danger to "impartiality" than "the paying customers"?

Indeed, reliance on a foundation or a political group may often mean LESS independence for a station than reliance on advertising. After all, with some exceptions, a business just wants radio ads that will bring in customers. A foundation or a political group typically wants to change the way the world is run.

Given this, which group is REALLY more likely to interfere with a station's programming?

As for consumers, most of them are not natural fans of commercials. However, commercials would still probably beat telethons, and other fund raising appeals, if a popularity contest were held.

ALSO, as we noted earlier, competition from commercial-airing LPRS stations -- IF the Commission allows them!! -- will exert downward pressure on conventional station advertising rates.

To the extent these advertising rates drop, many companies will enjoy reduced "overhead". In a competitive economy, at least SOME of these savings are likely to reach consumers in the form of lower prices for products and services.

Local Ownership Requirements

12. LOCAL OWNERSHIP REQUIREMENTS should be put in place for LPRS stations.

We urge the Commission to require that any LPRS station owner(s) must have a PRINCIPAL residence within reasonable proximity of the station -- PREFERABLY within the Reception Contour, but in no event more than 25 miles away.

We stress that local residency requirements MUST BE SUPPLEMENTED by restrictions on the size, income and outside control of an LPRS station. SMALL and local is good: LARGE and local is not.

Investments In LPRS By Existing Licensed Broadcasters

13. As contemplated by the Commission, EXISTING licensed broadcasters should be prevented from acquiring, OR otherwise investing in, LPRS stations. If new LPRS stations need "outside expertise", they can find it in abundance among those the existing broadcasters have laid off.

Restrictions On Size, Income and Outside Control

14. IN ADDITION to prohibiting possible investments in LPRS stations by existing licensed broadcasters, the Commission should ALSO establish SIZE, INCOME AND OUTSIDE CONTROL RESTRICTIONS for those who seek LPRS licenses.

That is: Large institutions in general -- NOT just existing licensed broadcasters -- should be barred by law from the Low Power Radio market.

This policy should apply to large NON-PROFIT entities as firmly as it applies to corporations.

Low Power Radio should be a frontier -- where individuals and small institutions can "run free". It is from EXACTLY such frontiers that much of America's innovation and inspiration has traditionally come.

REGARDLESS of whether profit-making individuals or institutions are allowed to own and/or operate LPRS stations, only SMALL institutions, or private individuals, should be allowed to acquire LPRS licenses. The FCC should require that licenses may ONLY be granted to -- or acquired by: (a) private individuals; OR (b) organizations falling below specific thresholds for net income AND net assets. The FCC should ALSO limit the degree to which any LPRS stations may rely upon ANY single institution for loans, grants, advertising revenue or other forms of cash flow.

Restrictions Proposed By The RM-9208 Petitioners

15. As the starting point for such a policy, we urge the Commission to consider the restrictions on size, income and outside control that were proposed by Don Schellhardt, Nick Leggett and Judith Fielder Leggett -- the RM-9208 Petitioners -- in their REVISED version of the RM-9208 proposal.

We do NOT regard this approach as flawless. There may be better ways to achieve the same goals. However, this is the best approach we have seen SO FAR -- and we ask the FCC to view it as an ILLUSTRATION of what must be done.

To this end, we incorporate by reference the May 7, 1998 Reply Comments of The RM-9208 Petitioners in FCC Docket No. RM-9208. The size, income and outside control restrictions are discussed on Page 75 and on pages 62 through 64.

(A) On page 63, the Petitioners assert "any size, control and/or local ownership restrictions should be IDENTICAL for both businesses and non-profits. Large is large and small is small, whether the institution involved lives on fund raising and grants or advertising and profits."

(B) On page 63, The Petitioners also say:

> We suggest limiting institutional entry to organizations, whether profit-making or not, which have:
>
> $200,000 or less in GROSS annual revenues
> AND
> $100,000 or less in NET assets
>
> We recommend measuring gross income, rather than net income, in order to circumvent -- or at least discourage -- possible games with "creative accounting" and/or the Tax Code.

AMHERST ADDS that the income and asset limits may be too low. $200,000 and $500,000 may be more realistic, AT LEAST in high cost areas.

Also, AMHERST WOULD EXCLUDE FROM NET ASSETS the station itself, the related equipment AND/OR equity in an owner-occupied PRINCIPAL residence.

(C) On page 64, the RM-9208 Petitioners urge restrictions to block DIRECT OR INDIRECT CONTROL OF LPRS STATIONS by outsiders. An "ineligible source" is ANY institution (corporate OR non-profit) that would not qualify, under the size and income criteria in (B), to acquire a license directly.

> Otherwise eligible microstations should be barred IF they are subject to excessive influence or control by those too large to apply for licenses themselves. Licenses should not be granted to, AND purchases of licensed microstations should not be allowed for, institutions meeting these criteria:
>
> More than 10% of the stock, or other instrument of control, is held by an ineligible source
> OR
> More than 20% of GROSS REVENUE is received in any form (grants, government funding, sales, whatever) from an ineligible source
> OR

More than 20% of financing is received from an ineligible source (adjustable to 40% in the case of a bank with absolutely no direct or indirect financial interest, of any kind, in any form of broadcasting)
OR
Any combination of the above

AMHERST ADDS that, if the FCC is troubled by the possible administrative burden of determining whether a source is "ineligible", the FCC can limit determinations of "ineligibility" to cases which involve applying for licenses, renewing licenses OR acquisition of an LPRS station's existing license.

For purposes of restricting a station's reliance on "ineligible" institutions for various forms of cash flow, the same basic results can be achieved by simply prohibiting excessive reliance on ANY single institution, whether small or not.

Where determinations of "ineligibility" MUST be made, we agree with this recommendation on page 64:

> In determining what constitutes an "ineligible source", we ask the Commission to trace the ownership and primary influence to "the ultimate point of control" -- even if this means following a trial of stock through 8 dummy corporations or looking beyond who owns the stock to who CONTROLS the stock.

AMHERST NOTES that these restrictions would apply ONLY to INSTITUTIONS (whether corporate OR non-profit) and NOT to individuals. AMHERST ADDS that the revenue and assets criteria should apply ONLY "at the starting gate". Once a station has a license, it should be able to "grow past the caps".

Prohibition Of Multiple LPRS Station Ownership

16. Only one LPRS station should be licensed per owner (with FCC monitoring and enforcement, as mentioned above, to block "backdoor ownership" schemes). This should apply NATIONWIDE.

Licenses should be awarded to PARENT COMPANIES (and non-profit equivalents) ONLY. INDIVIDUAL licensees should be PRINCIPALS. No one should be able to gain multiple licenses by acting through subsidiaries, affiliates, franchisees or agents. Media giants (including NPR), evangelical networks, product-promoting retailers and others may try.

Renewability Of LPRS Licenses, Using A "Public Interest" Standard

17. LPRS licenses should be RENEWABLE after their initial terms expire.

The LPRS is NOT Public Access Cable. Some people want to MAKE A LIVING in Low Power Radio. Others want to serve a cause, and/or a community, that gives meaning to their lives. Many, in BOTH groups, will invest much of their life savings.

Please do not force them to build their hopes on sand.

Please leave them a fighting chance to renew their licenses.

In the case of NON-COMMERCIAL licenses, where the use of auctions is NOT required, the Commission should approve or deny LPRS license renewals primarily on the old-fashioned basis of whether or not a particular station has been serving "the public interest" effectively.

We are aware that TOTALLY CASE-SPECIFIC determinations, based on evaluating the level of service to "the public interest", can be very time-consuming AND can also be breeding grounds for lawsuits. For the sake of litigation limitation, AND ALSO for the Commission's administrative convenience, Amherst can accept a reasonable and comprehensive DECISION-MAKING FORMULA that weights key values and honors diversity.

Regarding the latter point, suppose there are 2 "slots" for LP-100s in a suburb. If the first "slot" goes to a commercial-airing station, a commercial-free station should have extra points in competing for the next "slot", OR vice versa. Of course, OTHER forms of diversity must ALSO be considered in this process: religious versus secular, political versus entertainment and so on.

We realize that the contemplated policy on renewability MAY be motivated by the prospect that Digitalization could PERHAPS displace some LPRS stations from their frequencies. While we hope such displacement can be minimized, or avoided entirely, most aspiring LPRS broadcasters would rather cope with the possibility of frequency relocation, AND/OR become digital themselves, than see their licenses limited to a fixed term.

IF renewability is too much of a commitment for the FCC at this time, the FCC should at least: (a) keep the decision on renewability OPEN for now; (b) provide CLEAR guidance to LPRS station owners regarding the kind of broadly defined results, from individual LPRS stations AND from the LPRS as a whole, that the Commission is seeking; and (c) decide about renewability AFTER the LPRS stations have had time to gain a collective "track record" (perhaps on a "date certain" 3 to 5 years away).

"Public Interest" Standard For License Applicants

18. In the discussion directly above, we assert that license renewal should be based on a "public interest" standard wherever the law allows.

We urge the Commission to adopt the same policy with respect to the initial LPRS license APPLICATIONS. As in the case of LPRS license RENEWAL, discussed in Recommendation #17, we COULD accept a decision-making FORMULA if it weights key values and honors diversity.

Frankly, we wish it were legally possible to utilize a "public interest" standard for ALL radio station applications and ALL radio station renewals. This standard is far more equitable -- and, from the standpoint of the larger society, far more EFFICIENT -- than auctions, lotteries or "first come, first served".

We recognize that Congress and the President, through legislation adopted in 1996, have "tied the Commission's hands" to a major extent. We expect to see these statutory directives repealed, and/or struck down as unconstitutional by a court, within the next 5 to 10 years.

In the meantime, the Commission can practice "damage control". Where the law DOES allow a deviation from mandatory auctions, we urge the Commission to make the most of its discretion.

Channel Spacing Requirements

19. Where necessary to accommodate an LPRS station, the 3rd and 2nd adjacent channel spacing requirements should be eliminated. We see no inherent interference problems AND we note this action will help to make the LPRS more compatible with IBOC Digitalization (if the FCC adopts it).

The FCC should be aware (and probably is) that efforts are now being made, within the Low Power Radio community, to assemble funding and expertise for one or more technical studies in this area.

Part-Time, Time-Sharing Stations

20. The Commission should permit licensing of part-time LP-10 stations which voluntarily time-share a frequency. This policy will greatly facilitate access to LP-10 licenses for newcomers to radio and/or others with limited resources.

Emergency Alert System (EAS) Requirements

21. We recommend strongly that LPRS stations should be required to participate, with appropriate equipment, in the Emergency Alert System (EAS).

We reluctantly recommend exempting the LP-10 Tier, where capital costs must be held to the lowest possible level that is reasonable. However, we favor including LP-1000s and LP-100s in the EAS.

We take this stand because we believe in the value of the Emergency Alert System (EAS) and the value of emergency preparedness in general. We believe LPRS stations are able to make a special contribution during natural OR man-made disasters.

Being compact, mobile and sometimes linked to private generators, many of these LPRS stations might be able to "ride out" a large scale disaster, or at least return to the air with relative speed.

Conventional stations are more frequently fed by vulnerable power lines, with limited generator backup, and have equipment which cannot be moved as easily to locations of relative safety.

The comparatively "survivable" LPRS stations would certainly be valuable in relatively "routine" emergencies, such as hurricanes and tornadoes. Indeed, as meteorologists develop an increasing ability to generate "pinpoint" weather forecasts and reports, almost down to a block-by-block level, stations that focus on a specific community could become very effective conduits for carrying such highly localized information to the people who need it most. Residents of such areas could "get in the habit" of tuning in a local LPRS station -- for news about their specific community -- whenever weather conditions, or other conditions, seem disruptive or threatening.

However, the GREATEST contribution of LPRS stations might be made during and after disasters that dwarf hurricanes and tornadoes in the damage that they do. Planning for such "super-disasters" has become increasingly imperative for prudent government and corporate officials.

For example, the geological history of Southern California earthquakes suggests that the Los Angeles area is 30 years overdue for an earthquake of 8.0 or higher on the Richter scale. This is more than 10 times the power of the 6.9 Loma Prieto quake, which destroyed some neighborhoods in San Francisco and caused the collapse of an overpass in Oakland. (The Richter scale numbers are orders of magnitude, meaning that a quake rated 7 has 10 times the punch of a quake rated 6 -- and a quake rated 8 has 10 times the punch of a quake rated 7.)

At the human end of disaster scenarios, it is becoming progressively more probable that some terrorist groups will acquire the ability to detonate nuclear weapons in American cities (if they have not acquired it already). One career arms control inspector, returning to America from duty in Iraq, recently estimated the odds of a terrorist nuclear explosion in the United States at 50-50 over the next 10 years.

Since a massive earthquake or a THERMOnuclear explosion could disrupt infrastructure -- and trigger life-threatening situations -- over tens of thousands of square miles, radio stations that can "unplug from the infrastructure", and/or change locations quickly, might be "worth their weight in gold" during such "super-disasters".

In light of these concerns, we would happily extend EAS requirements down to LP-1 IF the costs ($1,000 to $1,500) were not such a huge obstacle for the aspiring owners of small LPRS stations. Indeed, some of our Members believe that the costs are too high to justify the coverage of even LP-100 stations (although theirs is a minority opinion).

IF the costs of EAS were subsidized by grants and/or low-interest loans -- provided by emergency preparedness agencies and/or foundations and/or similar institutions -- the use of EAS would be embraced throughout the Amherst community.

In the meantime, for struggling stations, perhaps others can illuminate less expensive paths than EAS. For decades, the American Radio Relay League (ARRL) has worked with the FCC, and its own Membership, to turn "ham" radio operators into heroes and heroines during countless disasters. Perhaps the "hams" can teach us how ALL of the LPRS stations can be integrated, AFFORDABLY, into the nation's emergency preparedness network.

Unlicensed Broadcasting And Retroactive Amnesty

22. The Commission should proceed with its contemplated policy toward unlicensed broadcasting and retroactive amnesty. That is, unlicensed broadcasters should NOT be penalized if they stopped broadcasting when ordered to do so AND/OR if they stopped broadcasting on or before February 22, 1999 (10 days from the date the FCC's Proposed Rule was published in THE FEDERAL REGISTER).

Amherst will not defend or encourage any unlicensed broadcasts that occur after this date.

Local Content Requirements

23. Proposals by some for local content requirements pose an agonizing tradeoff for most Amherst Members. On One Hand, we have a powerful and instinctive aversion to ANYTHING which impedes the free speech of LPRS stations AND/OR intrudes

upon their operational autonomy (for reasons other than normal spectrum management). On The Other Hand, we know that -- without safeguards -- many LPRS stations could be used as "fronts" for larger corporations (or large non-profits). LPRS stations could be turned into translators, satellators OR satellites (of the corporate type).

Amherst believes that the BEST way to prevent this is through limits on LPRS license eligibility.

In descending order of priority (that is, the MOST IMPORTANT proposal first), we rank possible licensing restrictions as follows:

1. Limit LPRS licenses to "one to a customer". For corporations, this should mean PARENT COMPANIES (or non-profit equivalents) ONLY. For individuals, this should mean PRINCIPALS ONLY.

2. Set size, income and outside control restrictions, as discussed in Recommendations #14 and #15.

3. Set local residency requirements, limiting LPRS licenses to station owners living in

or near the station -- PREFERABLY within the Reception Contour, but in no event more than 25 miles away.

IF these recommendations (especially "one to a customer") are rejected by the Commission, OR if the Commission determines that they do not provide adequate safeguards, THEN local programming content requirements should be considered.

IF local content requirements are considered at all by the FCC, these requirements should be: (a) very modest in scope; and (b) narrowly targeted to prevent stations from becoming mere "fronts" for the airing of material produced by larger entities.

For example, use of ALL central source feeds, COMBINED, could be "capped" at 49% of programming AND/OR use of any SINGLE central source feed could be "capped" at 25% of programming.

We favor such a MODEST AND TARGETED approach because "local content requirements" will surely translate into government-mandated expenditures of time and money by LPRS licensees. IF the mandate for expenditures becomes TOO demanding, then LPRS applicants with fairly humble resources may be effectively precluded from competing for licenses.

Possible Syndication Of Materials Developed By LPRS Stations

24. Any local content requirements should NOT apply to any materials which LPRS stations develop and DONATE AND/OR SYNDICATE TO EACH OTHER.

Syndication of original material could become a major source of influence and/or income for LPRS stations. It could also be a way to the mainstream for innovative, but potentially popular, material.

25. As a logical corollary to allowing sales, donations or exchanges among LPRS stations, nothing in the new regulations should prevent LPRS stations from syndicating material to LARGER institutions.